

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY TAYLOR,

Petitioner,

No. CIV S-05-0860 DFL GGH P

vs.

C. EVANS, Warden,

Respondent.

ORDER

A joint scheduling statement in this matter was filed on August 16, 2005, pursuant to the court's order filed June 10, 2005.¹ Petitioner pro se filed has paid the filing fee. In light of the appointment of counsel, petitioner pro se's May 18, 2005 motion to stay is hereby vacated.

Upon a review of the case file and joint statement, the court makes the following ORDERS:

1. Petitioner pro se has paid the filing fee, discharging his obligation to file either an in forma pauperis affidavit or the filing fee, pursuant to the court's order, filed on June 10, 2005.

2. The motion to stay the petition, filed on May 18, 2005, by petitioner pro se is hereby vacated as petitioner is proceeding with counsel;

¹Petitioner's counsel was substituted in by order filed June 23, 2005; the court granted substituted counsel's request for an extension of time to respond to the June 10, 2005 order on July 18, 2005.

1 3. Petitioner's counsel must file a further status report on or before November 21,
2 2005, informing the court whether or not petitioner will stand on his current petition of exhausted
3 claims only, will seek a stay and abeyance of the original petition, pending exhaustion of
4 additional claims, or will file an amended petition; should petitioner's counsel seek a stay and
5 abeyance, he must identify all unexhausted claims on which petitioner intends to proceed and
6 must demonstrate good cause for petitioner's having failed to exhaust state court remedies as to
7 any claim prior to filing his original petition, pursuant to Rhines v. Weber, ___ U.S. ___, 125 S.
8 Ct. 1528 (2005).

9 4. In the further status report to be filed on or before November 21, 2005,
10 petitioner's counsel must also inform the court as to whether discovery and/or an evidentiary
11 hearing will be sought; should respondent oppose any such requests, he must file any opposition
12 within 30 days of petitioner's setting forth the discovery he seeks or the need for an evidentiary
13 hearing; petitioner will have 15 days to file a reply to any such opposition.

14 5. Should petitioner elect to file an amended petition setting forth exhausted
15 claims only on which petitioner intends to proceed, petitioner's counsel must file any such
16 amended petition along with any supplemental memorandum of points and authorities on or
17 before January 20, 2006, after which respondent must file any response to such amended petition,
18 whether in the form of a motion to dismiss or an answer, within 90 days thereafter; petitioner will
19 then have 30 days to file an opposition or a reply, as appropriate; if an opposition to a motion is
20 filed, respondent has 30 days to file a reply.

21 DATED: 9/20/05

/s/ Gregory G. Hollows

GREGORY G. HOLLOWS
UNITED STATES MAGISTRATE JUDGE

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